

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

## PCT

### WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/US2005/034255

International filing date (day/month/year)  
27.09.2005

Priority date (day/month/year)  
27.09.2004

International Patent Classification (IPC) or both national classification and IPC  
B05D7/16, B05D7/00

Applicant  
E.I. DUPONT DE NEMOURS AND COMPANY

#### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

#### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

#### 3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

**10/575322**  
International application No.  
PCT/US2005/034255

**IAP20 Request PTO 06 APR 2006**

**Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US2005/034255

**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 1-12 (partilly)

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-12 (partially) are so unclear that no meaningful opinion could be formed (*specify*):

**see separate sheet**

- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the whole application or for said claims Nos.
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
  - the written form ☐ has not been furnished
  - ☐ does not comply with the standard
  - the computer readable form ☐ has not been furnished
  - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

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**Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	2-6 10
	No: Claims	1 7-9 11 12
Inventive step (IS)	Yes: Claims	2-6 10
	No: Claims	1 7-9 11 12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**Re Item III.**

"Present claims 1-12 relate to a process/product defined by reference to a desirable characteristic or property, namely:

"selected by nature and quantity in such a way that the multi layer coating obtained on the conclusion of process step (3) exhibits a brightness of...".

The claims cover all processes and products having this characteristic or property, whereas the application provides support within the meaning of PCT Article 6 and / or disclosure within the meaning of PCT Article 5 for only a very limited number of such processes and products. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Independent of the above reasoning, the claims also lack clarity (PCT Article 6). An attempt is made to define the process/product by reference to a result to be achieved. Again, this lack of clarity in the present case is such as to render a meaningful search over the whole of the claimed scope impossible.

Furthermore, present claims 1-12 relate to a process/product defined (inter alia) by reference to the following parameter(s):

P: brightness L .... of at least 80 units

The use of these parameters in the present context is considered to lead to a lack of clarity within the meaning of PCT Article 6. It is impossible to compare the parameters the applicant has chosen to employ with what is set out in the prior art. The lack of clarity is such as to render a meaningful complete search impossible.

Consequently, the search has been carried out for those parts of the claims which appear to be clear, supported and disclosed, namely wherein the non aluminium pigments, when present, are in the following combinations a) or b):

a)

- 0.8% by weight of a phthalocyanine green pigment
- 35.9% by weight of a mica pigment
- 2.6% by weight of titanium dioxide

- 0.2% by weight of carbon black
- b)
- 4.9% by weight of an iron oxide red pigment
- 15.1% by weight of an iron oxide yellow pigment
- 2.8 % by weight of titanium dioxide
- 0.1% by weight of carbon black

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as IPEA is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure."

**Re Item V.**

- 1 Reference is made to the following document:  
D1 : US 6 291 564 B1

**2 INDEPENDENT CLAIM 1**

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D1 discloses (the references in parentheses applying to this document):

A process for coating a substrate as in claim 1 wherein the aluminium pigment is STAPA Hydrolux 600 (TM) (see column 17 line 33- column 18 line 35) there is no non-aluminium pigment.

**3 INDEPENDENT CLAIM 12**

- 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 12 is not new in the sense of Article 33(2) PCT. Document D1

discloses (the references in parentheses applying to this document):  
A substrate coated by the process of claim 1.

The subject-Matter of claim 12 is therefore not new.

**4 INDEPENDENT CLAIM 2**

4.1 Document D1, which is considered to represent the most relevant state of the art, discloses (the references in parentheses applying to this document):

A process with two layers of base coat and one clear coat the two base coat are of the same composition. It cannot be considered that the first composition is modified version of the composition used in the second basecoat layer.

The subject-matter of Claim 2 is therefore new.

Claim 2 fulfils the requirements of Article 33(1) and 33(2) PCT.

4.2 The problem to be solved by the present invention may therefore be regarded as improving the adhesion of the base coat. There is no hint in document D1 that would lead to use a modified version the second basecoat to improve the adhesion.

The subject matter of claim 2 involves an inventive step.

Claim 2 fulfils the requirements of Article 33(3) PCT

**5 DEPENDENT CLAIMS 7-9 and 11.**

Dependent claims 7-9 AND 11 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step.

6. The subject-matter of claims 1-12 is industrially applicable and therefore meets the requirements of Article 33(4) PCT.